



STATE OF VERMONT
LEGISLATIVE COUNCIL

**Frequently Asked Questions About S.115,
An Act Relating to Civil Marriage, As Passed By the House and Senate**

Who Will Be Permitted to Civilly Marry?

S.115 and the House Judiciary Committee amendment define civil marriage as “the legally recognized union of two people.”¹ To establish a civil marriage, the persons may not be related to one another,² must be at least 18 years of age,³ and may not be already married to or in a civil union with a different person.⁴

Will Couples Still Be Permitted to Establish Civil Unions?

No. When the act takes effect on September 1, 2009, same-sex couples will have access to the civil marriage laws, but may no longer establish a civil union.

What Happens to Existing Civil Unions?

Civil unions established before September 1, 2009 will continue to be recognized in Vermont.

Can I Marry My Civil Union Partner?

Yes. Couples with existing civil unions will be permitted to marry one another. The civil marriage does not dissolve the civil union.

What If My Partner and I Have a Civil Marriage and a Civil Union and We Split?

Because the parties, issues, and process for the dissolution/divorce would be the same, dissolution of the civil union and divorce from the marriage could be sought at the same time and the family court could issue one order as to both. Vermont’s courts have already had some experience with this issue regarding Vermont civil union couples who were married in either Massachusetts or Canada. Upon petition, the court granted both the dissolution and the divorce.

Are Clergy Required to Solemnize a Same-Sex Marriage?

No. Clergy are authorized to solemnize marriages, but are not required to solemnize any particular marriage, and a clergyperson who refuses to solemnize a marriage is provided immunity from civil lawsuit under the statutes. A clergyperson may choose to regularly solemnize marriages but refuse to solemnize same-sex marriages.⁵

¹ Sec. 5 of House Judiciary Amendment to S.115.

² Sec. 3 of House Judiciary Amendment to S.115.

³ Sec. 8 of House Judiciary Amendment to S.115. A person aged 16 or 17 may marry with parental permission (current law not changed by the amendment); the amendment repeals current law that permits a person 14 or 15 years old to marry with judicial consent.

⁴ Sec. 4 of House Judiciary Amendment to S.115.

⁵ Sec. 9 of House Judiciary Amendment to S.115.

Must a Church Allow a Same-Sex Couple to Use Church Property for a Wedding Reception?

No. Religious organizations and their related nonprofit organizations are not required to provide services or facilities to any person if the purpose is related to the solemnization or celebration of a marriage. A church may selectively provide such services to some individuals, while denying them to others, and the refusal shall not give rise to any civil claim or cause of action.⁶

Do Religious Organizations that Reflect Disapproval of Same-Sex Marriage in their Employment Policies Risk Lawsuits Under the State Employment Anti-Discrimination Law?

No. Vermont's Fair Employment Practices Act provides an exemption to religious organizations with respect to sexual orientation. Religious organizations are permitted to give preference to persons of the same religion or denomination and "may take action with respect to matters of employment which is calculated by the organization to promote the religious principles for which it is established or maintained."⁷

Do Religious Organizations that Refuse to Extend Housing Benefits to Same-Sex Married Couples on Terms Identical to Those Offered to Married Women and Men Risk Lawsuits Under the State Fair Housing Law?

No. Vermont's Fair Housing and Public Accommodations Act provides that a religious organization may limit "the sale, rental or occupancy of dwellings which it owns or operates *for other than a commercial purpose* to persons of the same religion" and may give "preference to such persons, unless membership in that religion is restricted on the basis of race, color or national origin. The religious restriction or preference must be stated in written policies and procedures of the religious organization, association or society."⁸

How Does the Act Affect Fraternal Benefit Societies?

The amendment specifically states that the civil marriage laws are not to be construed to affect the ability of a society to determine the admission of its members or to determine the scope of beneficiaries and shall not require a society "that has been established and is operating for charitable and educational purposes and which is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the society's free exercise of religion, as guaranteed by the First Amendment to the Constitution of the United States or by Chapter I, Article 3 of the Constitution of the State of Vermont."⁹

⁶ Sec. 11 of House Judiciary Amendment to S.115.

⁷ 21 V.S.A. § 495(e).

⁸ 9 V.S.A. § 4504.

⁹ Sec. 10 of House Judiciary Amendment to S.115.